SINGLE BENCH

(2) (4)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION (S) NO.6800 /2006

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA,

PETITIONER — Shyam Kumar Nayak (B.Ed.), aged about 44 years, son of Shri Meenketan Nayak, Assistant Teacher, Government Primary School Khichri, Vikas Khand Baramkela, District Raigarh (CG)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through – Secretary, Department of School Education, Dau Kalyan Singh Bhawan, Raipur (C.G.)
2. District Education Officer – Raigarh (CG)
3. Block Education Officer, Vikas Khand Baramkela, District Raigarh (CG)

P.R. No. 6919/06
Presented by Shri R.K. Agrawal
dated 30/11/06

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(17)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

XI-HC-78

(16)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP(S) 6802 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11.12.2006

Shri A.N. Bhakta, counsel for the petitioner.
Smt. Anju Ahuja G.A. for the respondents/State.

The petitioner is working as Assistant Teacher in Government School. In the course of his service as Assistant Teacher, the petitioner has obtained B.Ed. certificate at his own expenses before 1.3.1999.

According to learned counsel for the petitioner, petitioner is entitled to two advance increments in view of the decision of this Court in the case of **Yashwant Kumar Bharadwaj Vs. Municipal corporation, Durg and another** reported in **2006 (2) MPJR – CG 96**. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (supra), came to the conclusion that the teachers, who had obtained B.Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.1998 issued by the State Government of Madhya Pradesh.

Further in the matter of **Smt. Manorama Shrivastava Vs. State of M.P. and others** reported in **2000 (1) MPLSR 136**, the Madhya Pradesh Administrative Tribunal, Gwalior Bench while

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(17)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WPCT 6800 **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

considering the circular dated 1.3.1999 wherein it is provided that the Assistant Teachers who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on the decision in the case of Rakesh Kumar Shrivastava Vs. State of Madhya Pradesh and others passed in Original Application No. 1632/1999 decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advanced increments.

It is pointed out by the learned counsel appearing for the petitioner that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed the Special Leave Petition No. 1999/2000 filed against the order of the tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./BTI certificates before 1.3.1999. It is further

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WPCT 6802 **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Hon'ble Supreme Court.

Learned counsel for the petitioner further submits that the facts and question of law involved in the present case of petitioner are squarely covered by the decision of this Court in the case of Yashwant Kumar Bharadwaj (supra) to which learned counsel appearing for the respondent/State fairly concedes and agrees with the averments made by learned counsel appearing for the petitioner.

Accordingly, the writ petition is allowed in terms of the decision of this Court in the matter of Yashwant Kuamr Bharadwaj subject to verification of the fact as to whether the petitioner has acquired B.Ed. certificate at his own expenses as per the circular dated 24.12.1998 and 1.3.1999 and further whether he has been paid two advance increments or not. No order as to costs.

Sd/-
Dhirendra Mishra
Judge

P.T.O.